

EXHIBIT 5

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 CHALMERS, DARRYL; CONNORS, DARREN; MENDEZ, GLENN; NOVA,
5 JAMES; ROSEMOND, FATIMA & AFSCME DISTRICT COUNCIL,
6 PLAINTIFFS,

7 -against-

Case No.:
1:20-cv-03389

8 CITY OF NEW YORK,

9 DEFENDANT.
10 -----X

11 DATE: April 27, 2021
12 TIME: 10:00 A.M.

13
14 VIRTUAL DEPOSITION of the Plaintiff,
15 FATIMA ROSEMOND, taken by the respective parties, pursuant
16 to a Court Order and to the Federal Rules of Civil
17 Procedure, held at the above date and time, before Enrique
18 Alvarado and Lisa O'Leary, Notaries Public of the State of
19 New York.
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21
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23
24
25

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1 A. 1961.

2 Q. Have you ever used any other social security
3 number?

4 A. No, ma'am.

5 Q. What race or ethnicity do you identify as?

6 A. African-American.

7 Q. Have you always identified as African-American?

8 A. Yes, ma'am.

9 Q. When was the last time you recall being asked to
10 self identify your race on any forms connected to your City
11 employment?

12 A. When I initially got hired.

13 Q. When you initially got hired at the FDNY?

14 A. Yes, ma'am.

15 Q. When would that have been?

16 A. March 2019.

17 Q. And do you recall whether you put down your race
18 in your application before you were hired or once you were
19 hired?

20 A. I always usually identified myself.

21 Q. And what do you mean by that?

22 A. I always put that I'm African-American in all my
23 applications so before I was hired.

24 Q. What is the highest level of education that
25 you've received?

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1 sent them a letter. I sent my investigator my doctor's
2 note stating that my doctor is allowing me to come back to
3 work, and then I completed my process, my investigating,
4 giving my investigator all my paperwork, and doing the drug
5 screening.

6 Q. And when you say you returned to work you
7 returned to work at the Post Office; is that correct?

8 A. Yes.

9 Q. When you say investigator, who was that?

10 A. I'm sorry, I can't even recall his name at this
11 time. It was an FDNY personnel.

12 Q. Was this personnel assigned to your application?

13 A. I believe so.

14 Q. So it was someone who was overseeing your
15 application as they went through the FDNY; is that correct?

16 A. Right.

17 Q. And when you say the process had been put on
18 hold, did you inform the FDNY that you had been injured?

19 A. Yes.

20 Q. And what did they say in response?

21 A. They said okay. It was, you know, it was an
22 unfortunate accident that happened.

23 Q. And when did you get hired with the FDNY
24 officially?

25 A. Official start date was April 1, 2019.

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1 Q. And what was your title when you were hired?

2 A. Fire protection inspector.

3 Q. And if I refer to that as an FPI, will you
4 understand that I'm referring to a fire protection
5 inspector?

6 A. Yes.

7 Q. Is FPI still your title today?

8 A. Yes, ma'am.

9 Q. And what is your current salary?

10 A. About 54,000.

11 Q. 54,000 a year?

12 A. Yes.

13 Q. And then you get overtime; is that correct?

14 A. Occasionally.

15 Q. And was this the salary when you first began as
16 an FPI in April 2019?

17 A. No.

18 Q. What was your first salary when you first began?

19 A. About 46,000.

20 Q. So how did your salary come to change from 46,000
21 to 54,000?

22 A. After two years of employment.

23 Q. So after two years of employment you were bumped
24 up to 54,000; is that correct?

25 A. Yes.

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1 tabling the name of this person so I'll just ask
2 and you can let me know if she can answer.

3 Q. Do you remember the position of this person? Do
4 you know what his role was or his title was?

5 A. He was an FPI like myself.

6 Q. Was he the same level as you?

7 A. Yes.

8 Q. And the other person you referred to, the other
9 woman that you referred to that file a complaint, was she
10 also an FPI?

11 A. Yes.

12 Q. Was she also in your unit?

13 A. Yes.

14 Q. To your knowledge, has anyone at FDNY filed a EEO
15 complaint against you?

16 A. No, not to my knowledge.

17 Q. Have you ever filed a charge of discrimination
18 against anyone other than in this case?

19 A. No.

20 Q. And when you made this prior EEO complaint, was
21 your complaint one of sexual harassment or did you also
22 complain of any type of discrimination?

23 A. It was just for sexual harassment.

24 Q. I'm going to shift gears a little bit. I want to
25 speak about this case specifically. Are you aware that

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1 this lawsuit is a potential class action?

2 A. Yes.

3 Q. What is your understanding of what a class action
4 is?

5 A. When a group of people come together and file a
6 lawsuit on an organization.

7 Q. Do you understand that you're a named plaintiff
8 in this lawsuit?

9 A. Yes, ma'am.

10 Q. And so you understand that you will be potential
11 representing hundreds of other plaintiffs?

12 A. Yes, ma'am.

13 Q. Have you ever done that before?

14 A. No, ma'am.

15 Q. What do you understand about the other people who
16 you are representing?

17 MS. LANGLEY: Objection, form.

18 Q. You can answer if you understand.

19 A. Can you ask it a different way?

20 Q. Sure. So of the group of people that you're
21 representing, you mentioned you understand you might be
22 representing hundreds of other plaintiffs. What is your
23 understanding of who those other plaintiffs are, not by
24 name but generally?

25 A. The majority of them is African-American. The

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1 majority of the people I work with is African-American so I
2 can't -- a lot of males, yeah.

3 Q. Do you know any reason that you should not be a
4 class representative?

5 A. No.

6 Q. Is there anything that would make it difficult
7 for you to be a class representative?

8 A. No.

9 Q. Have you ever discussed with anyone, other than
10 lawyers, whether you should be a class representative?

11 A. I was approached by Darryl.

12 Q. And who is Darryl?

13 A. Chief Chalmers.

14 Q. He's also a named plaintiff in this case,
15 correct?

16 A. Yes.

17 Q. Tell me about when he approached you? When did
18 he approach you?

19 A. He just asked me would I like to be a part of the
20 lawsuit because of X, Y and Z, because of we are being
21 discriminated against due to race and pay, and I told him
22 being the person that I am, that I would definitely put
23 myself on the line for my fellow coworkers.

24 Q. When Mr. Chalmers approached you, did you know
25 about the lawsuit at all?

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1 A. No, I don't think so.

2 Q. So the first time you learned about the lawsuit
3 was through him, correct?

4 A. Right.

5 Q. And what did he tell you about the lawsuit?

6 A. That FPIs was being discriminated against for
7 race, pay, uniform, transportation, and at this time it was
8 the height of the COVID and I got why he said those things.

9 Q. Why is that?

10 A. Prior to this, I was on a -- prior to COVID, I
11 was on a joint task force working with DOB every day, every
12 night, and we are doing the same exact work as them and not
13 getting the same pay.

14 Q. Can you tell me more about that particular joint
15 task force. You mentioned that it's every day?

16 A. Yeah. HPD, DOB and FDNY will get together every
17 Wednesday and we would do a joint task force of buildings
18 around the city. So each department would write violations
19 for buildings that were violating either the building code
20 or the fire code.

21 Q. And when you mentioned that you would do the task
22 force every Wednesday, was this during your initial
23 schedule where I think you worked 1:00 p.m. to 9:00 p.m.,
24 Mondays, Tuesdays, Thursdays, Fridays and then Wednesdays
25 you were doing the joint task force; is that right?

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1 A. Right, and then we had a regular joint task force
2 for DOB, Tuesday through Friday.

3 Q. So for the Wednesday joint task force, I think
4 previously you mentioned that you began working on it on
5 Wednesdays, that 8:00 or 9:00 a.m.; is that correct?

6 A. Right.

7 Q. So did you have a regular shift at work with the
8 FDNY on those Wednesdays, or your shift that day was just
9 to be on the task force?

10 A. You're with the task force every day except I
11 think Monday but Tuesday through Friday is two task force.
12 It's the morning task force that happened once a week with
13 HPD, DOB and FDNY.

14 Q. So I think I could use some help understanding
15 this completely. So how do you have a joint task force
16 every day and also are able to complete your regular shift
17 with FDNY?

18 A. So every day was our job to go out to be with the
19 Department of Buildings, and go and inspect buildings.
20 That was our everyday task.

21 Q. And was that just your unit to the extent you
22 know?

23 A. For the joint task force, yes, but I know other
24 units who works with DOB as well.

25 Q. So if every day on your shift you are part of a

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1 joint task force with the DOB, what's different about
2 Wednesdays?

3 A. Wednesday HPD is there and it starts earlier. It
4 starts at 8:00 a.m.

5 Q. So on Wednesdays, when it starts earlier, are you
6 paid overtime?

7 A. Yes.

8 Q. And I think you mentioned that when you're on the
9 joint task force, the FDNY inspectors and the DOB are doing
10 the same thing. What did you observe that makes you
11 believe that?

12 A. We are going into the same location, we are going
13 from top to bottom inspecting the buildings and writing
14 violations.

15 Q. Is DOB responsible, if you know, for identifying
16 different kinds of violations than an FPI would be?

17 A. During this task force, no, we all did it
18 together, from the roof all the way to the basement.

19 Q. Are the DOB inspectors looking for different
20 types of violations?

21 A. They may look at the pipes of the plumbing for
22 the most part we looking for egress issues, safety issues,
23 fire escape issues, you know, whether the place is safe,
24 you know.

25 Q. So looking at the pipes or the plumbing, that's

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1 something that the DOB inspector would do, correct?

2 A. Yes.

3 Q. And would an FPI also look at the pipes and
4 plumbing?

5 A. That would be a different unit from my unit.

6 Q. What unit would that be?

7 A. That would be suppression, sprinkler standpipe
8 suppression unit.

9 Q. And when you're on the joint task force with the
10 DOB, are you also enforcing the building code?

11 A. We enforce the fire code and some building codes,
12 yes.

13 Q. Do you enforce the same codes that the DOB
14 inspectors would be enforcing?

15 A. We have similar codes. They have their
16 violations and we have our violations so we have a fire
17 code book and they have a building code book, but for the
18 most part, I would say we are citing some of their codes as
19 well in our violation.

20 Q. So it's fair to say that the DOB is referring to
21 a different code book than the FDNY is, correct?

22 A. Yes.

23 Q. And it's fair to say that the DOB inspector is
24 identifying violations of different code provisions than
25 the FDNY inspector would be; is that correct?

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1 A. No, not all the time.

2 Q. When you say not all the time, are there
3 circumstances where they are, in fact, enforcing violations
4 of different code provisions than the FDNY inspector would
5 be doing?

6 A. Only if we go out with them on Wednesday. Our
7 regular day-to-day joint task force, we are doing the same
8 exact job.

9 Q. And the basis for your belief that you're doing
10 the same exact job is that you are both inspecting the same
11 building from top to bottom; is that correct?

12 A. Yes.

13 Q. And what is different about the Wednesday tasks
14 forces?

15 A. Because again, HPD is there so it's -- you're
16 actually going into the people's apartments as well, you
17 know, I will be allowed to go into someone's apartment.
18 The Department of Buildings is allowed to go into someone's
19 apartment and the inspector from HPD is allowed to go into
20 someone's apartment. It's basically a complaint against a
21 bad landlord and we just all go and see how can we make the
22 building safe.

23 Q. Are DOB inspectors, if you know, allowed to go
24 into a residential apartment building?

25 A. Yes.

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1 Q. And they can do that without the HPD present,
2 correct?

3 A. Yes.

4 Q. And is an FDNY inspector allowed to go into a
5 residential apartment building without the HPD or the DOB
6 inspectors?

7 A. Yes.

8 Q. Under what circumstances is the FDNY permitted to
9 go into a residential apartment building without the HPD or
10 the DOB inspectors?

11 A. For fire safety reasons, for safety reasons.

12 Q. So why is it that on Wednesdays you would need to
13 be with the HPD or DOB inspectors to go to a residential
14 apartment building?

15 A. Because it's basically a class action complaint.
16 Maybe if it's 40 apartments in the building, maybe 20
17 apartments had a complaint against this building so we will
18 all, you know, go in and do a joint inspection.

19 Q. And how often do you, in your daily
20 responsibilities, go into a residential apartment building
21 or a unit?

22 A. I go into buildings every day.

23 Q. And that includes residential units, correct?

24 A. Right.

25 Q. I think earlier we were talking about your

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1 A. Yes, if they take it to court yes.

2 Q. And has it been taken to court one time?

3 A. Yes, just one time.

4 Q. And what was the outcome of that?

5 A. Honestly, I didn't go back in and review. They
6 just asked me -- it was a corridor issue. They had garbage
7 blocking the corridor and they wanted basically what did I
8 see, why did I write it.

9 Q. And why did you write it?

10 A. Because they had garbage cans blocking the
11 corridor. So just in case of a fire, the residents of that
12 location, it was blocking the egress for them to go out.

13 Q. And was that a fire code violation?

14 A. Yes.

15 Q. Was it also a building code violation?

16 A. That can be also a building code violation so it
17 goes hand in hand but I know in that specific one I cited
18 them a fire code violation.

19 Q. If you were to cite them a building code
20 violation, do you know what code it would be?

21 A. Not off the top of my head, no.

22 Q. So I'd like to speak more about joint task
23 forces. I understand that you have been on joint task
24 forces with the DOB and the HPD; is that correct?

25 A. Yes.

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1 Q. And so currently you work an
2 8:00-a.m.-to-9:00-p.m. schedule, three to four days a week;
3 is that correct?

4 A. Yes.

5 Q. And of the three to four days that you're
6 working, how many of those are on a joint task force with
7 the DOB or the HPD?

8 A. Well, since COVID happened last year, the task
9 force has stopped but out the weeks, we -- so the other
10 night we had, we did a joint task force in Queens due to an
11 illegal structure, so DOB was called out and so was the
12 illegal conversion called out.

13 Q. And from what time to what time were you on this
14 assignment last night?

15 A. It wasn't last night. Last night was Monday; it
16 was last Thursday.

17 Q. So what time did you go on this assignment last
18 Thursday?

19 A. It was about 7:00 and I think we didn't leave
20 until about 12:00 midnight.

21 Q. And am I correct then that your regular shift
22 would have ended around 9:00 p.m.?

23 A. Yes.

24 Q. And so you didn't leave until 12:00 a.m. whenever
25 this ended?

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1 A. We didn't actually -- because we have to do
2 paperwork. You have to submit your paperwork, you have to
3 submit your fines, and violations, and summonses. So you
4 have to go back to the office and submit all your paperwork
5 so we actually didn't get off until about 1:15 in the
6 morning.

7 Q. So from 9:00 p.m. to 1:15 in the morning, that
8 would've been overtime for you?

9 (Whereupon, at 2:15 P.M., a technical issue
10 occurred.)

11 (Whereupon, at 3:12 P.M., Enrique Alvarado,
12 the Court Reporter, was relieved by Lisa
13 O'Leary.)

14 F A T I M A R O S E M O N D, called as a witness,
15 having been first duly sworn by a Notary Public of the
16 State of New York, was examined and further testified as
17 follows:

18 CONTINUED EXAMINATION BY

19 MS. HADAGHIAN:

20 Q. Please state your name for the record.

21 A. Fatima Rosemand.

22 MS. HADAGHIAN: I will just make one note
23 for the record, because our prior court reporter
24 had some technical difficulties, we are uncertain
25 of where exactly he stopped transcribing for the

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1 was here, it was every day, four days out of the week.

2 So I can say maybe a hundred times, maybe more.

3 Q. Most of the time that you have been on the joint
4 task forces with the DOB, are you going from room to room
5 with them?

6 A. Yes.

7 Q. And have you asked them what specifically they
8 were inspecting?

9 A. No.

10 Pretty much we know exactly what we are there
11 for.

12 We have the complaint right in front of us and we
13 just all go together, from, like I said, from top to
14 bottom.

15 Only time we usually separate is when we go into
16 the car and they issue their violations and we have to
17 write our violations.

18 Q. If you know, what are joint task forces used for?

19 A. For safety matters.

20 From what I heard, I don't know whether this is
21 hearsay or not, but before DOB wasn't getting into a lot of
22 buildings, without the Fire Department.

23 So that's why they did the joint task force,
24 because 95 percent of the time, you know, why I was there,
25 we were getting into, into residences or businesses, you

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1 know, for inspection.

2 Q. And from whom did you hear that the task forces
3 were used, because the DOB wasn't getting into buildings?

4 A. From the senior guys, senior guys who were
5 already in the unit.

6 Q. Do you remember their names?

7 A. Kevin Bumford, Amir.

8 Q. Amir who?

9 A. Amir Hassan, Angel Aiella.

10 Q. And these are all FPIs?

11 A. Aiella is a supervising FPI.

12 Q. And in your experience on task forces, generally,
13 are you ever told what to do by the DOB inspectors?

14 A. No.

15 Q. And do you ever tell the DOB inspectors what to
16 do?

17 A. No.

18 Q. Who typically is in charge, of the work that
19 you're doing on a joint task force?

20 A. We usually come up with a game plan.

21 We usually just really stick together and inspect
22 from top to bottom.

23 Q. So --

24 A. We just pull together.

25 Q. So the person in charge would be, whoever within

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1 the group of FPIs that are going; is that fair?

2 A. Right.

3 Q. And you just decide amongst yourselves what to do
4 as FPIs; is that correct?

5 A. Right.

6 Q. But that doesn't -- that decision-making does not
7 bleed over into what the DOBs are doing.

8 They're doing something different; is that
9 correct?

10 A. As far as the inspection goes?

11 Q. As far as how they decide what to do and who is
12 in charge of them.

13 A. Again, like I said, we all do the inspection
14 together.

15 It's never, you know, okay, you guys go here, you
16 guys go there and we are going to do this and you guys are
17 going to do that.

18 It's we go from top to bottom.

19 If it's two of us and two of them or four of us
20 go from the top to the bottom or from the bottom up. We
21 don't leave each other.

22 Q. Do you mean that the FPIs and the DOB inspectors
23 decide together where to start and which rooms to go to
24 next?

25 A. Right.

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1 Again we usually go from top to bottom, work our
2 way down.

3 The only time we split up is when we're going
4 into our individual cars and going to write violations.

5 Other than that, we are together throughout the
6 whole inspection.

7 Q. During your time on the joint task forces, have
8 you ever observed a DOB inspector inspect anything
9 differently than you would?

10 A. No.

11 Q. Have you ever observed them inspect anything,
12 that you wouldn't inspect yourself, for instance, plumbing
13 in the building?

14 A. Only time that happens is when we're on the
15 Wednesday morning task force.

16 So those will be specific inspectors.

17 Q. Can you explain to me a little bit more then how
18 the Wednesday morning task forces differ?

19 A. The Wednesday morning task force, like I stated
20 before, is with HPD, HPD, DOB and FDNY.

21 That, I believe that task force, because a group
22 of tenants made a complaint about a residential building.
23 It's been several complaints about this one particular
24 building.

25 So the task force will meet up at 9 o'clock in

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1 the morning, in front of the location, and inspect the
2 location together.

3 Q. And so in this circumstance on the Wednesday
4 morning task forces, the DOB inspector, they're checking
5 plumbing as well?

6 A. They may, yes, they may have a DOB inspector
7 there for plumbing and an electrician.

8 Q. If there's a DOB inspector inspecting plumbing,
9 you are not also inspecting plumbing, are you?

10 A. We all start from the top and work ourself down.

11 So it's not like if he's going off to the side
12 and doing the inspection, it will be all through the
13 inspection, from top to bottom, and then when he gets to
14 the bottom, that's when he starts, okay, well, you know, he
15 looks around at the plumbing, but for the most part we are
16 all together all day.

17 Q. Do you issue violations, for issues with
18 plumbing?

19 A. No.

20 Q. And the DOB inspector who does electric, what is
21 he looking at?

22 A. He's looking at the emergency lights, which we do
23 have, the fire code has a violation for that, and he's
24 looking at, I guess, the circuit box.

25 Q. Would you issue violations, for anything wrong

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1 with the circuit box?

2 A. If it didn't have a cover, if the wires were
3 hanging out, things of that nature, yes.

4 Q. Have you observed DOB inspectors, specific to
5 electric, inspect the circuit box?

6 A. Yes.

7 Q. And how does he or she inspect it?

8 A. Basically like I would do, just look at it.

9 They wouldn't fix anything.

10 They would just basically do an inspection, the
11 same thing, look at it, oh, you know, this is faulty, I'm
12 going to give them a violation to fix it, and basically we
13 do the same thing too, to basically cover the inspection
14 box, fix the wires, things of that nature.

15 Q. Do you know whether he would cite different code
16 provisions?

17 A. No, I don't know what code provision that he
18 would use.

19 Q. Something I want to learn a little bit more about
20 is that on these Wednesday morning inspections, you
21 mentioned that there are specific DOB inspectors.

22 Do you mean DOB inspectors with like a specific
23 focus, like plumbing or electric?

24 A. I believe, yes, I believe that they maybe
25 specialize in one thing and not the other.

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1 Q. Have you worked on any other task forces, where
2 you're working with similarly specialized DOB inspectors,
3 like plumbing, like electric?

4 A. No.

5 Q. How often were you on the Wednesday morning task
6 force?

7 A. Every Wednesday.

8 Q. And this was when your shift was, from 1:00 p.m.
9 to 9:00 p.m., Mondays through Fridays; is that correct?

10 A. Yes.

11 Q. And so on Wednesdays when you started at 9 --
12 sorry, on Wednesday when you started at 9 a.m., for that
13 task force, were you getting overtime from 9 a.m. to 1:00
14 p.m.?

15 A. We were coming at 8, meet up at headquarters,
16 which is 9 Metro Tech, and then drive out to wherever the
17 location, the first location was at.

18 Q. Were you getting overtime from 8:00 a.m. then
19 until 1:00 p.m.?

20 A. Yes.

21 Q. Have you ever turned down the opportunity to work
22 on a joint task force?

23 A. No.

24 Q. Have you ever requested to work on a joint task
25 force and have that request be denied?